***THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

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W.P.24030 of 2005

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% 02.01.2006

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Between:

A.Sanjasi Rao S/o.A.Narayana Murthy,
LIDCAP R/o.Hyderabad Hyderabad.

..... PETITIONER

AND

The Leather Industries Development Corporation of Andhra Pradesh Limited (LIDCAP) rep by its
Vice Chairman 5-77/27, Dharga Hussain Shawaall, Hyderabad, and another

.....RESPONDENTS

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! Counsel for the Petitioner: Mr.M.Venkatram Reddy

^ COUNSEL FOR THE RESPONDENTS: Mr.T.S.Bhaskar Rao, SC for Lidcap

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> Head Note:

? CITATIONS:

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 24030 of 2005

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Dated 02-01-2006

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THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 24030 of 2005

ORDER:

The petitioner was working as Manager (P & C) in the Leather Industries Development Corporation Limited, the 1st resopndent herein. The 2nd respondent passed an order dated 31-08-2005, relieving the petitioner from service, with effect from that date,

on the petitioner attaining the age of superannuation of 58 years. However, an observation was made to the effect that, since certain allegations are pending against him, the enquiry is going on, and the final settlement of his retirement benefits would be done, after finalisation of the enquiry. The petitioner challenges the same. He contends that no charge memo was issued, while he was in service. It is also urged that in case the respondents intended to proceed against him, it was open to them, only after extending the service of the petitioner, beyond the age of superannuation.

In the counter affidavit filed by the resopndents, a reference is made, to certain general allegations against the petitioner. It is stated that the petitioner would be extended the service benefits, after the enquiry against him is concluded.

Heard the learned counsel for the petitioner and learned Standing Counsel for the respondents.

It hardly needs any emphasis that an employee can be subjected to disciplinary proceedings, only as long as he is in service. Once he is removed from service, it is improper for the employer, to initiate disciplinary proceedings. There are instances where the disciplinary proceedings already initiated against employees are not concluded by the time the employee retires, or the necessity to initiate such procedings arise, at a time when the employee is about to retire. In such cases, the employer can either initiate or continue the disciplinary proceedings, as the case may be, subsequent to the date of retirement of the employee, only after passsing a specific order, continuing the employee, beyond the date of superannuation.

In the instant case, the 2nd respondent relieved the petitioner from service with effect from the afternoon of 31-08-2005, on his attaining the age of superannuation. By that time, neither any disciplinary proceedings were pending, nor any charge memo was issued, simultaneously. There is nothing on record to disclose that the respondents

have continued the petitioner beyond the age of superannuation, to enable them to proceed against the petitioner. Hence, there does not exist any justification for the respondents in withholding the retirement benefits of the petitioner.

The writ petition is accordingly allowed, and the imupgned order, in so far as it directs stoppage of retirement benefits to the petitioner, till the finalisation of the socalled enquiry, is set aside. Consequently, the respondents are directed to settle the retirement benefits of the petitioner, and pay the same, within a period of two months from the date of receipt of a copy of this order. In case, the amounts are not paid within that time, they shall carry interest
@ 15% per annum, from the date of expiry of two months. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.02-01-2005.

Note:

L.R. copy to be marked.

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